

BOARD OF PESTICIDES CONTROL

January 27, 2006

319 Deering Building
90 Blossom Lane, AMHI Complex
Augusta

SPECIAL MEETING AGENDA/MINUTES

3:00 P.M.

Chair Carol Eckert called this special meeting to order at 3:10 P.M. Other members in attendance included Humphreys, Simonds and Walton. Berry, Bradstreet and Jemison were unable to attend. Assistant Attorney General Mark Randlett was also present along with Charles Rudelitch, a USM Law School Extern serving in his office.

1. Introductions of Board and Staff

- ☒ The members and staff introduced themselves.

2. Development of Report from Findings of the Environmental Risk Advisory Committee

The Joint Standing Committee on Agriculture, Conservation and Forestry (ACF) carried over to the 2006 session LD 1657 An Act to Minimize the Risk to Maine's Marine Waters and Organisms Posed by the Application of Pesticides. In the meantime, they requested the Board to evaluate ongoing studies of the potential for pesticides to cause adverse effects on lobsters and report back to them by January 2, 2006. At its July 29th meeting, the Board reconstituted its Environmental Risk Advisory Committee (ERAC) to study this issue and report back to the Board. The ERAC has met six times to review a wide range of information and will meet again on January 24th to finalize its report to the Board. The Board must review the ERAC's findings and prepare a final report to the ACF prior to an extended deadline of February 13th. The Board is scheduling this special meeting on the only date that a quorum could be assured.

Presentation By: Lebelle R. Hicks, PhD DABT
Pesticides Toxicologist

Action Needed: Discussion of findings by ERAC and develop recommendations to include in the final report to the Joint Standing Committee on Agriculture, Conservation and Forestry.

- ☒ Hicks asked the members to turn to the Conclusions and Recommendations Section of the report starting on page 27. She walked the members through the specific findings noting that lobsters are not at a high risk due to the timing of the pesticide applications and the fact lobsters are not molting at that time. She pointed out that chronic risks for the five compounds were not significant because their half-lives are shorter than the duration of the chronic studies. In response to a question from Simonds, she confirmed that in calculating risks the lower the Risk Quotient the lower the theoretical risk. It was

agreed that the report to the Legislature should clearly point out that the higher the Risk Quotient the higher the risk.

Hicks reported that use of Dimilin represented the least risk and use of cyfluthrin the highest risk. She also announced that the ERAC had considered the idea of establishing critical pesticide control areas around mudflats due to their potential to hold pesticide residues for long periods of time. Due to the wide distribution of mudflats, the ERAC determined this course would be too complicated. Instead, the ERAC concluded that the same risk reduction could be accomplished more simply by utilizing buffer zones and limiting ground use to Dimilin.

Jennings distributed a list of considerations applicable to development of any public law requiring buffer zones to marine waters. He explained it was important to carefully craft the regulatory language to ensure it would be enforceable and not have unintended consequences affecting other types of pesticide use. As an example he noted that language regulating pesticide use for BTM control would be unenforceable. An applicator could simply elect to spray trees to control other insects such as Eastern Tent Caterpillar or Gypsy Moth. The members agreed that there is a high risk of creating unintended consequences if there is not sufficient thought put into the drafting process.

Eckert asked how the members wished to proceed and it was agreed that three previously identified errors in the report should be corrected and then the report should be accepted. The drafting errors were identified and corrected as follows:

Page 28 – The paragraph starting No Observable Effect should read “No Observable Effect Concentrations (NOEC) are the toxic endpoint of choice for ~~acute~~ chronic exposures.”

Page 30 – The paragraph starting 0 – 250 ft. should read “Pesticide spraying for BTM control prohibited. Clipping of webs and tree/soil injection of pesticides only allowed”.

Page 30 – The paragraph starting 250 – 500 ft. should read “Aerial spray and mist blowers for BTM control prohibited. Clipping of webs, tree/soil injection of pesticides only allowed”.

Simonds/Walton: Motion made and seconded to accept the report with the three corrections.

In Favor: Unanimous

The Board members recognized that there would not be time to conduct a benefits versus risks assessment before the Legislature needed a report by February 13th and expressed concern that the Legislature might rush to enact a buffer bill when the likelihood of any significant acreage being treated in 2006 seemed quite small.

Simonds/Walton: Motion made and seconded to direct staff to complete a cover letter for the ERAC report that would convey the Board’s preferences as follows:

1. Delete the current language in the bill and direct the Board to complete its risk versus benefits assessment knowing that the Board has already established priorities

for reviewing aerial application issues and the creation of buffers to surface waters. The ACF Committee would recognize that the Board could not complete this work prior to this summer.

2. Delete the current language in the bill and direct the Board to develop a rule to create buffers to marine waters and take it to public hearing this year.

3. If the ACF feels compelled to have buffers in place for this year's potential spray operations, then consider the notes developed by Board staff and adopt the buffers recommended by the ERAC but sunset them after this year.

In Favor: Unanimous

Humphreys noted the hard work of the ERAC committee members and indicated she felt they should each receive a letter of thanks. There was a consensus that the ERAC had done an excellent job and that staff should prepare a letter of thanks for signature by the Board Chair.

3. Adjourn

☒ A motion to adjourn was accepted at 4:36 P.M.

Robert I. Batteese, Jr.
Director